

**DEPARTMENT OF EDUCATION
SPECIAL EDUCATION PROGRAMS**

South Dakota Women's Prison

Accountability Review - Focus Monitoring Report 2007-2008

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Dates of On Site Visit: October 15, 2007

Date of Report: November 16, 2007

4 month CAP due: March 16, 2007

8 month CAP due: July 16, 2007

Program monitoring and evaluation.

In conjunction with its general supervisory responsibility under the Individuals with Disabilities Education Act, Part B, Special Education Programs of the Office of Educational Services and Support shall monitor agencies, institutions, and organizations responsible for carrying out special education programs in the state, including any obligations imposed on those agencies, institutions, and organizations. The department shall ensure:

- (1) That the requirements of this article are carried out;
- (2) That each educational program for children with disabilities administered within the state, including each program administered by any other state or local agency, but not including elementary schools and secondary schools for Indian children operated or funded by the Secretary of the Interior:
 - (a) Is under the general supervision of the persons responsible for educational programs for children with disabilities in the department; and
 - (b) Meets the educational standards of the state education agency, including the requirements of this article; and
- (3) In carrying out this article with respect to homeless children, the requirements of the McKinney-Vento Homeless Assistance Act, as amended to January 1, 2007, are met. (Reference- ARSD 24:05:20:18.)

State monitoring--Quantifiable indicators and priority areas.

The department shall monitor school districts using quantifiable indicators in each of the following priority areas, and using such qualitative indicators as are needed to adequately measure performance in those areas:

- (1) Provision of Free Appropriate Public Education (FAPE) in the least restrictive environment;
- (2) Department exercise of general supervision, including child find, effective monitoring, the use of resolution meetings, mediation, and a system of transition services as defined in this article and article 24:14; and
- (3) Disproportionate representation of racial and ethnic groups in special education and related services, to the extent the representation is the result of inappropriate identification. (Reference-ARSD 24:05:20:18:02.)

State enforcement -- Determinations.

On an annual basis, based on local district performance data, information obtained through monitoring visits, and other information available, the department shall determine whether each school district meets the requirements and purposes of Part B of the IDEA...

Based upon the information obtained through monitoring visits, and any other public information made available, Special Education Programs of the Office of Educational Services and Support determines if the agency, institution, or organization responsible for carrying out special education programs in the state is meeting compliance requirements.

Deficiency correction procedures.

The department shall require local education agencies to correct deficiencies in program operations that are identified through monitoring as soon as possible, but not later than one year from written identification of the deficiency. The department shall order agencies to take corrective actions and to submit a plan for achieving and documenting full compliance. (Reference-ARSD 24:05:20:20.)

The agency will collect data and submit information to fulfill the Corrective Action Plan at 4, 8 and 12 month intervals. The plan must be completed one year from the receipt of the final report which includes the CAP.

GENERAL SUPERVISION

The following is a partial list of regulations from the Federal Register which apply to young adults placed in adult prisons and correctional facilities.

Adult Prisons

Divided State agency responsibility.....300.607

FAPE requirements:

- Exception to FAPE.....300.102(a)(2)
- Modifications of IEP or placement....300.324(d)(1)
- Requirements that do not apply.....300.324(d)(2)

Governor300.149(d)

Other public agency responsibility.....300.149(d)

Correctional Facilities

Applicability of this part to.....300.2 (b)(1)(iv).

Divided State agency responsibility.....300.607

Exception of FAPE (Children in adult facilities)...300.102(a)(2)

State advisory panel (Representative on)300.168 (a) (11)

State juvenile-adult correctional facilities.....300.2(b)(1)(iv)
Transfer of rights to children in..... 300.520(a)(2)

ARSD: 24:05:27:26. Incarcerated students in adult prisons. The following requirements do not apply to students with disabilities who are convicted as adults under state law and incarcerated in adult prisons:

- (1) Participation of students with disabilities in general assessment; and
- (2) Transition planning and services with respect to the student whose eligibility under this article will end, because of their age, before they will be eligible to be released from prison based on consideration of their sentence and eligibility for early release.

ARSD: 24:05:27:27. Modifications to IEPs for students in adult prisons. The IEP team may modify the student's individualized education program or placement if the state has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated. However, these modifications do not apply with respect to:

- (1) The development, review, and revision of individualized education programs as described in this chapter;
- (2) Content of the individualized education program with the exception of general assessment and transition as noted above; and
- (3) The least restrictive environment provisions relating to being educated with nondisabled students and removal from the regular education environment.

Determination: Out of Compliance

The review team determined there is no evidence of a special education program at the SD Women's Prison. Through review of the current intake form and through interviews the monitoring team determined there is no clear method for identifying, evaluating and the provision of service to young women suspected of having a disability.

During interviews, the monitoring team determined there are women with suspected disabilities, some known to have IEP's in school districts but no documentation was available to indicate attempts to obtain the records, review, revise and implement the program.

Women's Prison staff offered a copy of the special education process used at the State Penitentiary (men's prison) developed by Sioux Falls School District and

the special education teacher. No special education process is in place for the women at the Women's Prison.

The monitoring team determined neither education director or teacher are certified in the area of special education and therefore cannot implement a special education program.

Corrective Action:

Steps to implement for compliance.

- 1. Hire or contract for special education services by a special education teacher certified in South Dakota.**
- 2. Develop a special education process. This process must include forms and process from intake/referral to placement, reevaluation and annual review.**
- 3. Review and revise the current intake form or develop a new form for gathering information about the current educational status of the young women.**
- 4. Special education staff must continually update through training offered by Special Education programs.**